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SUBJECT: ORTEGA'S CITIZENS' COUNCILS - PANDORA'S BOX?

REF: A. MANAGUA 1944
[1](#)B. MANAGUA 2375
[1](#)C. MANAGUA 2486

Classified By: Ambassador Paul Trivelli for reasons 1.4(B,D)

[1](#)1. (C) SUMMARY: On November 21, a Pandora's Box was opened when the Nicaraguan National Assembly (NA) voted to override President Ortega's veto of a controversial legislative change that would prevent him from creating his Citizen Power Councils (CPC) as an extension of the Executive branch. Since the vote, three departmental appeals courts have filed injunctions and counter-injunctions to prevent the NA from officially recording the veto override vote. Opposition deputies have boycotted the NA, leaving Ortega's other proposed legislation dormant due to a lack of quorum; Ortega has threatened to use "whatever means necessary" to implement the CPCs, including the issuance of Presidential decrees for all future legislation. Social tensions are building over the government's utilization of the CPCs to sell below market-price beans, in effect to blunt popular discontent over rising inflation. The controversy has not affected Ortega's plans formally launch the CPCs on November 30. END SUMMARY.

Injunction Anyone?

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[1](#)2. (U) Since the November 21 vote to override Ortega's veto, three separate appeals courts have issued injunctions and counter-injunctions to, respectively, prevent and support the National Assembly from publishing the reformed law (ref. C). The first injunction, issued by the Managua Appeals Court (TAM), came only 63 minutes after the vote, and forbade the Assembly from publishing (and thereby formalizing) the law. On the afternoon of November 26, the Liberal-dominated Bluefields Appeals Court (located in the South Atlantic Autonomous Region - RAAS) issued a counter-injunction, overruling the TAM's earlier decision and allowing the law to be published.

[1](#)3. (SBU) According to Supreme Court (CSJ) Justice Rafael Solis, within hours of the Bluefields decision, the Sandinista-dominated Matagalpa Appeals Court issued a counter-injunction against the counter-injunction. Commenting on this "domino effect", Solis smugly noted that "certainly there will be a war of resolutions throughout the country, but those Liberals are at a disadvantage because they only have control over two appeals courts - Bluefields

and Masaya - and we, the FSLN, control seven." (COMMENT: As these appeals courts have no binding authority over each other, their counter-injunctions amount to little more than public spectacle. Only the Constitutional Court within the CSJ enjoys this final legal authority. Further, it is unclear whether the TAM even had the legal authority to issue an injunction -- against the implementation of a still unpublished law -- in the first place. According to Solis, the Constitutional Court will hear the case on December 5. END COMMENT)

All Quiet on the Legislative Front

14. (C) In protest of the TAM's quick (and questionable) legal move, Nicaraguan Liberal Alliance (ALN), Constitutional Liberal Party (PLC), and Sandinista Renewal Movement (MRS) deputies boycotted the Assembly for two days following the court's decision, leaving the legislature without the quorum necessary to vote on other pending legislation. (NOTE: The boycott might have lasted longer, but the Assembly was officially closed the following week as previously scheduled. END NOTE.) In a November 26 meeting with Polcouns, PLC caucus chief Maximino Rodriguez stressed that the three opposition parties would attempt to "stack the deck" during the last two weeks of the Assembly's session to prevent FSLN-favored legislation from getting on the agenda (septel).

Round Two - Off With the Gloves

15. (U) In response to the opposition bloc's veto override and subsequent boycott of the NA, Ortega has gone on the offensive, using nearly every public event or press conference to drive home the point that he will do whatever it takes to breathe life into his CPCs, including "governing by (presidential) decree." In a closed press conference on November 26, referring to the opposition's boycott of the NA, Ortega warned that "If they (the NA) will not approve this law in benefit to the people, I will approve it. They would obligate me to govern by decree." In a clear sign that Ortega is digging in his heels, he emphasized that he will match every legal challenge mounted by the NA with a new decree "until the CPCs are installed."

Full Steam Ahead for November 30

16. (U) Despite the legal stalemate and the ongoing battle between the government branches, Ortega has repeatedly emphasized that he will formally launch the CPCs on November 30 in the Plaza of the Revolution with the long-anticipated naming of a national CPC cabinet. This cabinet, sitting top of a pyramid structure consisting of thousands of local CPCs will, according to Ortega and First Lady Rosario Murillo, advise Ortega and provide him with a "street-level" check on the effectiveness, efficiency, and conduct of the government ministries (ref. A). (COMMENT: Given the growing controversy surrounding the CPCs and recent poll results - referenced by Liberal legislators during the November 21 debate (ref. C) - that indicate that upwards of 95 percent of Nicaraguans are opposed to the CPCs, there is no doubt that Ortega will spare no expense or effort to pack the plaza as a demonstration of "popular support." END COMMENT)

CPCs Get Beans

17. (SBU) Adding to the tension was the recent announcement that the State-run National Enterprise of Basic Grains (ENABAS) has begun setting up subsidized bean distribution centers overseen by the CPCs. While citizens desperately need price relief after bean prices more than tripled this year (ref. B), there is concern about CPC partisan bias against non-Sandinistas. Nicaraguans have nervously joked that this marks the return of the Sandinista's "AFA" rationing of the 1980s - Arroz, Frijoles, y Azucar (Rice, Beans, and Sugar).

¶18. (C) President Ortega's very public row with the National Assembly over the legal status of the CPCs is costing him and the CPCs popularity as he threatens to use increasingly draconian measures to get what he wants. However, within the storm of controversy, the CPCs are calmly going about their business within communities, seemingly unaffected by the battle raging above them.

¶19. (C) This stark contrast suggests that Ortega is willing to gamble - and sacrifice - popular support to lock down this formal social mechanism. Legal recognition of the CPCs would enable Ortega to "verticalize" party (and personal) control of the government from the cabinet level down to the neighborhood level, where the CPCs are already demonstrating that they can wield considerable influence, both through genuine efforts to improve the lives of their neighbors and potentially less benign forms of controlling access to State services (such as distribution of daily staples, like beans).

Thus, even if the FSLN lacked a broad base of popular support leading up to the 2008 municipal elections, Ortega could use the localized power and control of the CPCs to influence voting by either persuading or preventing voter participation, as needed.

¶10. (C) With the "Pacto" controlling the CSJ (ref. C), chances are good that Ortega will eventually get what he wants. The only remaining question is what will be the extent of the "collateral damage." Ortega's efforts to push the CPCs have already exposed fissures within the FSLN party struture (FSLN Mayor of Managua Dionisio "Nicho" Marengo recently has been embroiled in a public and vicious altercation with First Lady Murillo, in part, over whether the CPCs are necessary). It remains to be seen whether the internal FSLN resentment of and external opposition to the CPCs will finally compel opposition political groups and civil society organizations to work together to develop a unified strategy against Ortega for the 2008 elections (or successfully turn the campaign into a referendum on Ortega and the CPCs).

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